

14-1492

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CARNEGIE MELLON UNIVERSITY,

Plaintiff-Appellee,

v.

MARVELL TECHNOLOGY GROUP, LTD. AND MARVELL
SEMICONDUCTOR, INC.,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF PENNSYLVANIA IN CASE NO. 2:09-cv-00290-NBF,
JUDGE NORA B. FISCHER

**UNOPPOSED MOTION OF PLAINTIFF-APPELLEE CARNEGIE
MELLON UNIVERSITY FOR AN EXTENSION OF TIME TO FILE
ITS ANSWERING BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and
Federal Circuit Rule 26(b), Plaintiff-Appellee Carnegie Mellon
University (“CMU”) respectfully requests an extension of thirty (30)
days to file its answering brief. CMU’s answering brief is currently due

on September 18, 2014. If this motion is granted, the brief will be due October 20, 2014.

In support of this motion, CMU states as follows:

1. This is CMU's first request for an extension of time.
2. The opening brief of Defendants-Appellants Marvell Technology Group, Ltd. and Marvell Semiconductor, Inc. ("Marvell") was originally due on July 21, 2014. On June 17, 2014, Marvell sought a fourteen (14) day extension, which this Court granted on June 18, 2014.
3. On June 26, 2014, Marvell sought a 3,000-word extension to the default 14,000-word limit for its opening brief, which this Court granted on July 18, 2014.
4. Marvell's opening brief was filed on August 4, 2014.
5. CMU's answering brief is currently due, without an extension, on September 18, 2014.
6. This extension is made necessary by the complexity and number of arguments Marvell and its *amici* have raised on appeal. CMU must respond to an extra-length brief by Marvell raising five

separate issues relating to both liability and damages, as well as two *amicus curiae* briefs relating to damages.

7. This extension is also made necessary by the press of other matters, including matters before this Court.

8. Mr. E. Joshua Rosenkranz leads the briefing team on this case. He is also lead counsel for VeriFone in *Cardsoft, LLC v. VeriFone, Inc.*, No. 14-1135 (Fed. Cir.), and will be arguing that case before this Court on September 11, 2014. On September 8, 2014, he will be filing a petition for certiorari in the U.S. Supreme Court in *Chandler v. United States* (U.S.). In addition, he will be filing reply briefs in *John Wiley & Sons, Inc. v. Supap Kirtsaeng*, No. 14-344 (2d Cir.) and *In re Herald & Steadman*, No. 14-131 (U.S.), on September 11 and September 25, 2014, respectively.

9. Mr. Eric A. Shumsky also represents CMU in this matter. He is also counsel for DIRECTV in *DIRECTV, Inc. v. Fla. Dep't of Revenue*, No. 05-CA-1037(Fla. Dist. Ct. App.), set for oral argument on September 17, 2014.

10. This motion is being filed more than seven (7) calendar days before the original due date for the brief. See Fed. Cir. R. 26(b)(1).

11. Counsel for CMU has conferred with counsel for Marvell. Marvell's counsel consents to CMU's request for a 30-day extension of time to file its answering brief.

CONCLUSION

For the foregoing reasons, the Court should grant CMU's unopposed motion for a 30-day extension (to October 20, 2014) to file its answering brief.

Dated: August 27, 2014

Respectfully submitted,

By: /s/ E. Joshua Rosenkranz
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*Attorneys for Plaintiff-Appellee
Carnegie Mellon University*

CERTIFICATE OF INTEREST

Counsel for plaintiff-appellee certifies the following:

1. We represent Carnegie Mellon University
2. That is the real name of the real party in interest.
3. All parent corporations and any publicly held companies

that own 10 percent or more of the stock of Carnegie Mellon University:

NONE

4. The following law firms and partners or associates appeared for Carnegie Mellon University in the United States District Court for the Western District of Pennsylvania or are expected to appear in this Court:

K&L GATES LLP

Theodore J. Angelis, Roberto Capriotti, Douglas B. Greenswag, Eliza K. Hall, Mark G. Knedeisen, David T. McDonald, Patrick J. McElhinny, Joseph J. Porcello, Nicola J. Templeton, Christopher M. Verdini, Daniel H. Royalty (no longer with firm), Gregory F. Wesner (no longer with firm)

ORRICK, HERRINGTON & SUTCLIFFE LLP

Christopher J. Cariello, Bas de Blank, Derek F. Knerr, Scott T. Lonardo, Rachel M. McKenzie, Amisha R. Patel, Mary Kelly Persyn, E. Joshua Rosenkranz, Eric A. Shumsky

Date: August 27, 2014

/s/ E. Joshua Rosenkranz
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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF PENNSYLVANIA IN CASE NO. 2:09-cv-00290-NBF,
JUDGE NORA B. FISCHER

**DECLARATION OF E. JOSHUA ROSENKRANZ IN SUPPORT
OF PLAINTIFF-APPELLEE CARNEGIE MELLON
UNIVERSITY'S UNOPPOSED MOTION FOR AN EXTENSION
OF TIME TO FILE ITS ANSWERING BRIEF**

I, E. Joshua Rosenkranz, hereby declare:

1. I am a member of the firm Orrick, Herrington & Sutcliffe LLP, counsel for Plaintiff-Appellee Carnegie Mellon University (“CMU”). I have personal knowledge of the matters set forth herein.

2. I submit this declaration in support of CMU's motion for a 30-day extension of time to file its answering brief. This is CMU's first extension request in this appeal.

3. This extension is made necessary by the complexity and number of arguments Defendants-Appellants Marvell Technology Group, Ltd. and Marvell Semiconductor, Inc. ("Marvell") and their *amici* have raised on appeal. CMU must respond to an extra-length brief by Marvell raising five separate issues relating to both liability and damages, as well as two *amicus curiae* briefs relating to damages.

4. This extension is also made necessary by the press of other matters, including matters before this Court.

5. I lead the briefing team on this case. I am also lead counsel for VeriFone in *Cardsoft, LLC v. VeriFone, Inc.*, No. 14-1135 (Fed. Cir.), and will be arguing that case before this Court on September 11, 2014. On September 8, 2014, I will be filing a petition for certiorari in the U.S. Supreme Court in *Chandler v. United States* (U.S.). In addition, I will be filing reply briefs in *John Wiley & Sons, Inc. v. Supap Kirtsaeng*, No. 14-344 (2d Cir.) and *In re Herald & Steadman*, No. 14-131 (U.S.), on September 11 and September 25, 2014, respectively.

6. My colleague, Eric A. Shumsky, also represents CMU in this matter. He is also counsel for DIRECTV in *DIRECTV, Inc. v. Fla. Dep't of Revenue*, No. 05-CA-1037(Fla. Dist. Ct. App.), set for oral argument on September 17, 2014.

7. On August 26, 2014, Mr. Derek Shaffer, counsel for Marvell, communicated to me by email that Marvell consents to CMU's request for a 30-day extension of time to file its answering brief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: August 27, 2014, in New York, NY.

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*Attorney for Plaintiff-Appellee
Carnegie Mellon University*

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of August, 2014, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF, which will automatically send notification of such filing to all registered users.

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